

**Minutes  
Bar Harbor Planning Board  
May 14, 2008**

***Members present: Kay Stevens-Rosa, Chair; Mike Gurtler, Vice-Chair; Kevin Cochary, Secretary; Lynne Williams; Dave Bowden***

***Also present: Anne Krieg, Town Planner; Lee Bragg, Town Attorney; Kris Hultgren, Staff Planner***

**I. CALL TO ORDER — 5:34 p.m.**

**II. EXCUSED ABSENCES**

No excused absences.

**III. ADOPTION OF THE AGENDA**

***Ms. Williams made a motion to adopt the agenda. Mr. Bowden seconded and the Board voted unanimously to approve the motion.***

**IV. OTHER BUSINESS**

**A. Wireless Communication Facilities Ordinance**

Ms. Williams gave an overview of her position. She specifically mentioned the Palermo, Maine, wireless ordinance and how it refers to all schools, public and private and day care centers. She noted Palermo's ½ mile setback to schools. She also noted the 1,000 setback from residences. She also mentioned removing language in section 5 of the proposed ordinance referring to the health, safety and welfare of surrounding lot owners as being discriminatory to some.

The Board discussed the setback issue of the proposed ordinance. Ms. Krieg noted that staff is recommending that the language regarding setback to schools include private schools and day care centers. Ms. Stevens-Rosa asked what the definition of a school is and Ms. Krieg referred to the definitions in the land use ordinance.

Mr. Cochary suggested trying to add provisions to the proposed ordinance that try and address the safety issues involving children.

Ms. Williams suggested using the setback tool as a way to direct towers to the parts of town where coverage is currently weak or nonexistent. Mr. Cochary concurred.

Mr. Gurtler asked about what is important for the town to protect? He suggested deciding what the town wants to protect and get feedback from the public and then make a decision. Mr. Gurtler went on to suggest amendments to the ordinance. These changes included removing the term "public health" from the ordinance and replacing it with "public safety", requiring the applicant to present a demonstration of the impact on scenic resources rather than a narrative, changing the language in 9(f) referring to a camouflage plan, making sure the lighting conforms with the dark sky standards, changing "threat" to "impact" in 10(b), and changing the language in section 11 to replace the word "utilize".

Ms. Stevens-Rosa opened the hearing to the public.

Barbara Meyers, discussed health issues cited in Europe. She noted that 1,200 feet is used to gauge cancer clusters. She encouraged the Board to consider a 1,200 foot setback from schools and residences.

Robert Phipps, talked about the setback issue regarding schools, children and residential homes. He expressed his unhappiness with the current ordinance and commented that the Board is on the right track in discussing changes. He hopes the issues being discussed tonight will be incorporated into a new ordinance.

Judith Blank, a resident of Bar Harbor, noted that she supports the Board's efforts to try and improve the proposed ordinance.

Ron Greenberg inquired whether if in 5 years health concerns of cell towers are real is the town protected from litigation. It remains unclear precisely how the town would be affected.

Barbara Meyers asked if the Board will reconsider exempting wireless facilities in or on existing buildings. The Board discussed the matter.

The Board directed staff to update the proposed wireless ordinance with changes to the school setback language, the changes suggested by Mr. Gurtler and create a map showing setbacks to public and private schools and day care centers. The Board directed staff to produce these changes for their meeting on June 4.

## **B. Code Enforcement Land Use Amendments**

The Board discussed seven proposed changes to the Land Use Ordinance proposed by the Code Enforcement Officer.

*Regarding amendment one – temporary storage, Mr. Gurtler made a motion to recommend the proposed amendment for fall town meeting. Mr. Cochary seconded and the Board voted unanimously to approve the motion.*

*Regarding amendment two – exceptions to setbacks, Mr. Gurtler made a motion to recommend the proposed amendment for fall town meeting. Mr. Cochary seconded and the Board voted unanimously to approve the motion.*

*Regarding amendment three – residential garage definition, Mr. Cochary made a motion to recommend the proposed amendment for fall town meeting. Mr. Gurtler seconded and the Board voted unanimously to approve the motion.*

*Regarding amendment four – vacation rentals, Mr. Gurtler made a motion to recommend the proposed amendment for fall town meeting. Mr. Cochary seconded and the Board voted unanimously to approve the motion.*

*Regarding amendment five – height definition, Mr. Cochary made a motion to recommend the proposed amendment with the changes suggested by Ms. Krieg for fall town meeting. Mr. Gurtler seconded and the Board voted unanimously to approve the motion.*

*Regarding amendment six – lot width, Mr. Cochary made a motion not to recommend the proposed amendment for fall town meeting. Mr. Gurtler seconded and the Board voted unanimously to approve the motion.*

***Regarding amendment seven – gross leasable area, Mr. Gurtler made a motion to recommend the proposed amendment for fall town meeting. Mr. Bowden seconded and the Board voted unanimously to approve the motion.***

### **C. Planned Unit Development Ordinance**

Ms. Krieg reviewed the proposed changes to the PUD ordinance with the Board.

The Board discussed removing the PUD minimum lot size requirement all together. The Board discussed the financial implications. The Board agreed to revisit the issue at a later date.

Mr. Cochary asked why there is a minimum lot size in creating a PUD. Mr. Gurtler concurred and wondered how many more lots would become available for PUD. Mr. Cochary expressed his support for not having a minimum acreage for a PUD development.

The Board discussed the provision in the PUD ordinance that parcels cannot contain more than 50% of different land types to be considered for a PUD. Ms. Krieg reviewed the details of the provision and the Board discussed whether this should be increased to 75%.

The Board discussed the affordable housing provision in the PUD ordinance. Mr. Gurtler noted that he may be open to raising the median income standard to 200% of the median family income to qualify for affordable housing in PUD projects. This includes no bottom standard for qualifying for affordable housing.

Mr. Bowden suggested a tiered system for determining affordability and the Board discussed this idea. Mr. Cochary and Mr. Gurtler expressed interest in the suggestion.

The Board continued to discuss different scenarios to change the affordability requirement within the PUD ordinance. This included median income levels and dedicated funds into a trust to develop affordable housing.

Chris Spruce from The Housing Island Trust spoke about the affordability part of the ordinance.

Ellen Dohmen spoke about the affordability component. She encouraged the Board to think about the PUD holistically.

Shep Harris noted the need for a density bonus for affordable housing.

Jules Opton-Himmel discussed the importance of PUDs with conserving land, biodiversity and habitat in addition the affordability component.

Rob Levin noted that the affordability component in the PUD is too high. He cited as an example that first time home owners qualifying for the Maine State Housing Authority's "First Time Home Buyers Program" cannot qualify for affordable housing in Bar Harbor.

Laureen Donnelly expressed her desire to see the wetlands standards remain the same and not increase the affordability standard. She also noted the importance of open space and environmental considerations that PUDs promote.

Jill Weber, a member of the Conservation Commission, suggested a participatory workshop before any changes are made to the PUD. The Board discussed the idea and decided to continue the PUD discussion to its next meeting on May 21.

Ms. Krieg noted that she will update the PUD proposed changes and send the Board a copy for the next meeting.

**D. Shoreland Zoning**

This item was tabled to the May 21 meeting.

**E. Site Plan Review Procedures**

This item was tabled to the May 21 meeting.

**V. PLANNING DIRECTOR'S REPORT**

**VI. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA**

**VII. ADJOURNMENT - 9:38 PM**

*Signed as approved:*

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Kevin Cochary, Secretary  
Planning Board, Town of Bar Harbor

Date